

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DARLINGTON AMADASU,	:	Case No. C-1-01-210
	:	
Plaintiff,	:	Judge Dlott
	:	
v.	:	Magistrate Judge Black
	:	
JAMES R. DONOVAN, M.D., <u>et al.</u>	:	OHIO DEFENDANTS' MOTION TO
	:	STRIKE PLAINTIFF'S UNTIMELY
Defendants.	:	"SUPPLEMENTAL" BRIEF AND
	:	<u>DECLARATION</u>
	:	

The Ohio Defendants hereby move to strike the "supplemental" memorandum and evidentiary declaration that Plaintiff Darlington Amadasu filed over one week after his deadline for opposing summary judgment. The reasons for this motion are set forth in the attached memorandum in support.

Respectfully submitted,

By: /s/ Justin D. Flamm
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DARLINGTON AMADASU,	:	Case No. C-1-01-210
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Plaintiff,	:	Judge Dlott
	:	
v.	:	Magistrate Judge Black
	:	
JAMES R. DONOVAN, M.D., <u>et al.</u>	:	MEMORANDUM IN SUPPORT OF
	:	OHIO DEFENDANTS' MOTION
Defendants.	:	TO STRIKE PLAINTIFF'S
	:	UNTIMELY "SUPPLEMENTAL"
	:	<u>BRIEF AND DECLARATION</u>

The Ohio Defendants have moved the Court to strike the "supplemental" memorandum and evidentiary declaration that Plaintiff Darlington Amadasu ("Amadasu") served on June 10, 2005. (Doc. 108) With respect to the memorandum, Amadasu would have this Court and all of the defendants wade through another 38 pages of legal argument. Even standing alone, the length of Amadasu's brief would nearly double the 20-page limit imposed by Local Rule 7.2 and the June 2004 Order of this Court (Doc. 61) requiring parties to obtain leave before filing anything in excess of that 20-page limit. As Amadasu's "supplemental" designation makes clear, however, this new brief does not stand alone. Rather, it is an addition to the 73-page brief that he filed after his deadline for opposing summary judgment. The Ohio Defendants respectfully submit that the Court should strike Amadasu's "supplemental" brief to prevent him from flaunting the reasonable page limits imposed by this Court and by the Southern District of Ohio.

Likewise, Amadasu's "supplemental" declaration should be stricken as well. Amadasu submitted this additional evidence nearly two weeks after his deadline for briefing the summary judgment issues in this case. Local Rule 7.2(d) required Amadasu to submit all of his evidence by the May 30, 2005 deadline this Court set for his summary judgment opposition (Doc. 102):

When proof of facts not already of record is necessary to support or oppose a motion, all evidence then available shall be discussed in, **and submitted no later than**, the primary memorandum of the party relying upon such evidence.

(Loc. R. 7.2(d) (emphasis added)) The evidence that Amadasu submitted in this untimely declaration consists only of his own factual assertions, and there is no indication whatsoever that he could not have included these assertions in the 80-paragraph declaration that he filed on May 31, 2005. Indeed, the Ohio Defendants' evidence that Amadasu addresses in his declaration was served and filed in March 2005. Allowing this evidence into the record would not merely allow Amadasu to flaunt the deadlines applicable to all parties, it would encourage him to further crowd the docket by submitting evidence whenever the whim struck him now or in the future.

Should the Court nonetheless choose to consider either Amadasu's "supplemental" memorandum or declaration, the Ohio Defendants respectfully submit that they should be given the opportunity to respond with any necessary argument and/or rebuttal evidence.

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and served copies of the foregoing upon Darlington Amadasu, Plaintiff Pro Se, at P.O. Box 6263, Cincinnati, Ohio 45206, and upon John Grey, counsel for Claudia Miller and the University of Texas Health Science Center at San Antonio, at Assistant Attorney General for the State of Texas, General Litigation Division, P.O. Box 12548, Capitol Station, Austin, Texas 78711-2548, via regular United States mail, postage prepaid, this 23rd day of June, 2005.

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